

Chief, Fiscal Division

30 December 1948

Office of the General Counsel


Claim Against the Railway Express Agency

1. This is in reference to a claim against the Railway Express Agency for damages to a Government-owned adding machine shipped under Government bill of lading number XG-627 forwarded to this Office by your memorandum dated 8 December 1948.

2. In our previous memorandum to you dated 12 November 1948, we indicated the possibility of circumventing a limitation of liability claimed by the carrier. Actual damages to the adding machine amounted to \$80.70. The carrier asserted a liability ceiling of \$50.00 under his tariff. The limitation was incorporated in the Government bill of lading under condition 2 by reference to the commercial rates. We have received an unpublished opinion of the Comptroller General (B-38523 dated 26 May 1944) in which the Comptroller recognized the validity of a limitation of liability in a situation similar to the present case. Under Rule 130 of ICC 4500, Official Express Classification No. 33, liability is limited to \$50.00 for all shipments weighing less than 100 pounds when no additional evaluation is stipulated. Since the bill of lading does not indicate any specific valuation of its face, our claim in the amount of actual damages should be reduced to \$50.00 and re-submitted to the Railway Express Agency. In the meantime, it still appears proper to withhold from current unpaid carrier bills, the amount of \$50.00, pending the Railway Express Agency's agreement to settle for this amount.

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General Counsel  msk

Encl.